

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

END920000075US1

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on 09/14/05

Signature

Typed or printed name Georgia Y. Brundage

Application Number

09/660,852

Filed

09/13/2000

First Named Inventor

Gerard Vahee

Art Unit

3626

Examiner

Vanel Frenel

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 43,001

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

John R. Pivnichny

Typed or printed name

607-429-4358

Telephone number

09/14/05

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

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\*Total of 2 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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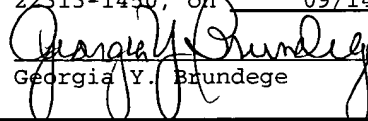
Docket No.: END920000075US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Patent Application of: Gerard Vahee et al

Group Art Unit: 3626 : IBM Corporation  
Examiner: Vanel Frenel : Intellectual Property Law  
Serial No.: 09/660,852 : Department IQ0A/040-3  
Filed: 09/13/2000 : 1701 North Street  
Title: PROJECT MANAGEMENT : Endicott, New York 13760  
METHOD AND SYSTEM

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 9/14/05  
Georgia Y. Brundage Date

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REASONS FOR REQUESTING A PRE-APPEAL BRIEF REVIEW**

Dear Sir:

The Examiner has finally rejected all of the claims in the present application under 35 U.S.C. 103(a) as being unpatentable over Baer (U.S. 6,611,840) in view of Morgenthaler (U.S. Publication 2002/0032677).

Baer has an effective date of 01/21/2000. Morgenthaler (a CIP) has a filing date of 06/15/2001 being a CIP of 09/516,901 filed on 03/01/2000.

Applicants submitted on 04/06/2004 in response to a first office action dated 12/04/03, a Declaration under 37 C.F.R. 1.131 of conception prior to the effective filing date of Baer (and

Morgenthaler). The Examiner has questioned various details of the evidence provided with this declaration on two subsequent office actions dated 07/14/2004 and 01/25/2005. Applicants responded to these office actions.

The Examiner has again questioned the evidence in the present final office action dated 07/15/2005. Applicants position is that their invention was conceived and reduced to practice prior to the effective date of the Baer (and Morgenthaler) references and have shown this with their Declaration under 37 C.F.R. 1.131 and additional evidence and arguments provided in their responses as indicated above. Applicants disagree with the Examiner's further questioning of the evidence provided (note the date of the Sue Davis e-mail 12/08/99 is August 12, 1999, as previously noted on page 2 of Applicant's response dated 11/09/04). Applicants therefore disagree with the present rejection under 35 U.S.C. 103(a) because both Baer and Morgenthaler should be withdrawn from further consideration under 35 C.F.R. 1.131.

Applicants respectfully request a pre-appeal brief review as noted in the attached form PTO/SB/33.

Respectfully submitted,

Dated: 09/14/05

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